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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,324	12/12/2003	Yu-Yu Chen	MR2863-140	9101

4586 7590 12/14/2004

ROSENBERG, KLEIN & LEE  
3458 ELLICOTT CENTER DRIVE-SUITE 101  
ELLICOTT CITY, MD 21043

EXAMINER
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GRIER, LAURA A

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/733,324

Applicant(s)

CHEN, YU-YU

Examiner

Laura A Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-2 and 6** are rejected under 35 U.S.C. 102(b) as being anticipated by Thorgersen, U. S. Patent No. 6080110.

Regarding claim 1, Thorgersen discloses a heartbeat monitor for wearing during exercise. Thorgersen's disclosure comprises an entertainment center (26), which reads on an audio generating device; a speaker (24), which reads on an audio signal output device; a timer (32) coupled to a controller (38), which reads on a time control circuit and a micro-processor; and earpiece with a pulse rate detector (44) coupled to an amplifier and pulse rate analyzer for input in the micro-controller to be transmitted to the user via the speaker, which reads on a body signal sensing device – figure 2, col. 3, lines 23-37, 48-52 and col. 4, lines 41-62; wherein, the audio signal generated by the audio signal output is transmitted to the audio signal output device, and the body signal is transmitted to the audio signal to the signal output device under control of the loop selection control signal, therein.

Regarding claim 2, Thorgersen discloses everything claimed as applied above (see claim 1). Thorgersen's disclosure comprises a pulse rate (synonymous to heart rate or heartbeat) detector (44), which reads on a heart rate detector, wherein the signal detected by the pulse rate

detector is transmitted to a pulse rate analyzer (42), which is coupled to the micro-controller to be transmitted to the user via the speaker – col. 4, lines 41-62, which reads on a heartbeat signal processing circuit, therein.

Regarding claim 6, Thorgersen discloses everything claimed as applied above (see claim 1). Thorgersen's disclosure further discloses when microcontroller (38) emits an audio signal of the sensed signal via speaker (24), the audio from the entertainment center is stopped – col. 4, lines 66-67, and col. 5, lines 1-11, which reads on the micro-processor, therein.

3. **Claims 1-4 and 6** are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson, et al., U. S. Patent No. 5976083.

Regarding claims 1, Richardson et al. (herein, Richardson) discloses a portable aerobic fitness monitor for walking and running. Richardson disclosure comprises an audio signal generator (013), an audio signal output (094); a real-time clock (031), a microprocessor (123), and electrodes (106), all of which functions accordingly as audio signal generator, an audio signal output device, an timer control device, a micro-processor, a body sensing device, therein as claimed – figures 1 and 8-9, col. 4, lines 2-10, 50-65, and col. 16, lines 1-34.

Regarding claim 2, Richardson discloses everything claimed as applied above (see claim 1). Richardson discloses chest electrodes (106), which reads on a heartbeat detector, wherein the electrodes are coupled to an amplifier /pulse processor (116), which is coupled to the processor subsystem (144), which reads on a heartbeat signal processing circuit.

Regarding claims 3-4, Richardson discloses everything claimed as applied above (see claim 1). Richardson discloses monitoring bodily movement which includes a pedometer that produces parameters indicative of a person's walking and running locomotion, which indicates a

pace detector, and the results are provided by back the user/person visually or audible (col. 4, lines 20-49), which reads on motion signal detecting device, therein.

Regarding claim 6, Richardson discloses everything claimed as applied above (see claim 1). Richardson discloses interrupting or fading the auxiliary audio of user via the audio output switch and volume controls when receiving results from the body sensing device which is coupled to the micro-processor – col. 4, lines 57-67.

***Allowable Subject Matter***

4. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Laura A. Grier  
December 8, 2004